

E-Filed 5/17/06

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SAMAL F. SYAMANSOORI, et al.,
Petitioners,

v.

DAVID STILL, District Director, United States
Department of Homeland Security, Bureau of
Citizenship and Immigration Services, et al.,
Respondents.

Case Number C 06-02647 JF (RS)

ORDER¹ TO SHOW CAUSE

[re: docket no. 1]

On April 19, 2006, Petitioners Samal F. Syamansoori and Zerin I. Syamansoori filed a “Petition for Hearing on Petitioners’ Application for Naturalization Pursuant to 8 U.S.C. § 1447(b)” against Respondents David Still in his official capacity as District Director, United States Department of Homeland Security, Bureau of United States Citizenship and Immigration Services (“USCIS”), San Francisco, California, Michael Chertoff in his official capacity as Secretary of the Department of Homeland Security, Emilio T. Gonzalez in his official capacity as Director of the Department of Homeland Security, Bureau of USCIS, and the United States of

¹ This disposition is not designated for publication and may not be cited.

1 America.

2 Petitioners allege the following. Samal and Zerin Syamansoori, husband and wife, are
3 citizens and nationals of Iraq and lawful residents of the United States. They entered the United
4 States as asylees in March, 1997 and became legal permanent residents on February 25, 1999.
5 On January 22, 2004, Petitioners filed applications for naturalization with the USCIS, and their
6 naturalization interviews were held on September 15, 2004. At their interviews, they were told
7 that their interviews had been successful, but that decisions could not be made until FBI
8 background checks had been completed. Other than a "Fingerprint Referral Notice" dated May
9 9, 2005, Petitioners have not received any decision or notice of action from the USCIS. At the
10 time Petitioners filed their applications for naturalization, they were employed as instructors in
11 the Arabic and Kurdish languages at the Defense Language Institute at the U.S. Government
12 Armed Services language school in Monterey, California. As of the time the instant motion was
13 filed, Petitioners are "assigned to and engaged in a special project for the Department of Defense
14 (DOD)."

15 Petitioners allege that Respondents have violated 8 U.S.C. § 1447(b), which provides:

16 If there is a failure to make a determination under section 1446 of this title before
17 the end of the 120-day period after the date on which the examination is
18 conducted under such section, the applicant may apply to the United States district
19 court for the district in which the applicant resides for a hearing on the matter.
Such court has jurisdiction over the matter and may either determine the matter or
remand the matter, with appropriate instructions, to the Service to determine the
matter.

20 Petitioners request that this Court assume jurisdiction over the instant matter, hold a hearing on
21 Petitioners' naturalization applications, and grant them naturalization.

22 Good cause therefore appearing, IT IS HEREBY ORDERED as follows:

23 (1) The Clerk of the Court shall serve by certified mail a copy of the petition and a
24 copy of this Order upon counsel for Respondents, the Office of the United States Attorney. The
25 Clerk of the Court also shall serve a copy of this Order upon counsel for Petitioners, Joanne
26 Haag.

27 (2) Respondents shall, within thirty (30) days after receiving this order, file and serve
28 upon Petitioners an answer, showing cause why a writ of mandamus requiring Respondents to

1 adjudicate Petitioners' applications immediately should not issue. At the time the answer is filed,
2 Respondents shall lodge with the Court all records relevant to a determination of the issues
3 presented by the complaint. If respondents contend that Petitioners have failed to exhaust
4 administrative remedies as to any ground for relief asserted in the complaint, Respondents shall
5 specify what administrative remedy remains available to Petitioners. If Respondents waive or
6 concede the issue of exhaustion, Respondents shall so state in their answer.

7 (3) Petitioners may file a response to the matters raised in the answer within thirty
8 (30) days after receiving the answer.

9 (4) Unless otherwise ordered by the Court, the matter will be deemed submitted upon
10 the filing of the response or upon the expiration of time to file a response.

11
12
13 DATED: May 17, 2006

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



JEREMY FOGEL
United States District Judge

1 This Order has been served upon the following persons:

2 Joanne Haag
3 Law Offices of Joanne Haag
4 Post Office Box 6208
5 Carmel, CA 93921

6 Office of the United States Attorney
7 150 Almaden Blvd., Suite 900
8 San Jose, CA 95113
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28